MONTANA LEGISLATIVE HISTORY

Chapter 366 19 69

Bill H 301 S _____ Original bill & history ____C

H. Committee on State Administration			S. Committee on State Administration		
Hearing Date(s)	Feb 02	✓C	Hearing Date(s)	Feb 26	✓C
		C		Feb 26	✓C
		C			C
		C			C
Date Out	Feb 03	✓C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

COMMITTEE ON STATE ADMINISTRATION 1969

BILL NO.	ENTERED COMM.	OUT OF COMM.	DO PASS	DO NOT PASS	DO PASS AS AMENDED	BE CONCURRED IN	BE CONCURRED IN AS AMENDED	BE NOT CONCURRED IN	
HB 188		2-19-69				X			
HB 42		2-19-69						X	
HB 142		2-19-69				X			
HB 249		2-21-69				X			
HB 227		2-21-69				X			
HB 175		2-21-69				X			
HB 203		2-21-69					X		
HB 236		2-21-69					X		
HB 428		2-22-69				X			
HB 427		2-22-69				X			
HB 358		2-22-69					X		
HB 210		2-21-69					X		
HB 473		2-22-69				X			
HB 431		2-22-69				X			
HB 237		2-22-69						X	
HB 206		3-4-69						X	
HB 303		2-24-69				X			
HJR 23		2-24-69						X	
HB 237		2-24-69					X		
HJR 16		2-26-69					X		
HJR 22		2-26-69				X			
HB 511		2-26-69				X			
HB 301		2-26-69				X			

☒ DO PASS
☐ DO NOT PASS
☐ BE CONCURRED IN
☐ BE NOT CONCURRED IN
☐ BE ADOPTED
☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

Feb. 3 69

19 ___

MR. PRESIDENT:

We, your committee on _____

having had under consideration ~~STATE ADMINISTRATION~~ Bill No. _____

HOUSE 301

Respectfully report as follows: That _____ Bill No. _____

BE AMENDED AS FOLLOWS:

[illegible], Subsection 5, line 2. Delete Subsection 5 in its entirety and renumber Subsection 6 to read Subsection 5; Subsection 7 to read Subsection 6 and Subsection 8 to read Subsection 7

And also be amended: Section 15, page 16, line 19. Delete lines 19, 20, 21 and 22 and insert in lieu thereof the following:
"is located. This section will be governed by the Montana Rules of Procedure."

AND THAT SO AMENDED DO PASS

XXXXXXX

DO PASS

House Committee Report form
Revised 3-65

_____ Chairman.

STATE ADMINISTRATION COMMITTEE

41st Legislative Assembly

Bill No.	Subject Matter	Date In	Hearing Date	Comments	Date Out	Committee Action	Final Action
HB236	Pub. employees vacation and sick leave benefits	1/21	2/2		2/2	DO PASS	
HB237	To increase Pub. employees mileage	1/21	2/2	Amendment	2/3	DO PASS AS AMENDED	
HB255	Creating St. Bd. Psychologist Exam	1/22	1/30		1/30	DO PASS	
HB263	Permitting electronic recording, Div. of Motor Veh.	1/22	1/30	Amendment	1/30	DO PASS	
HB296	Liquor Bd. Bd. members	1/23	1/30	----------	1/30	DO NOT PASS	KILLED
HB301	Building construction standards	1/23	2/2	Amendment	2/3	DO PASS AS AMENDED	
HB306	Group insurance rate increase	1/25					
HB419	Motor vehicle purchase require-						

STATE ADMINISTRATION COMMITTEE

February 2, 1969

The State Administration Committee met on Sunday, February 2, 1969, in Room 434 of the State Capitol at 10:00 A.M.

Chairman Ulmer presided and twelve memgers were present.

The following bills were acted upon at this meeting:

HB71..Rep. Ulmer suggested a recommendation of DO NOT PASS. Rep. Feda so moved. Motion carried.

HB236..Fep. Feda moved DO PASS. Motion carried. It was suggested that this bill be amended on the floor.

HB237..Rep. Burnett moved DO PASS. Rep. Rygg moved DO PASS with an amendment. Motion carried, DO PASS as amended.

HB301..Rep. Rygg moved DO NOT PASS. Rep. Burnett moved a substitute motion, DO PASS. Rep. Ulmer asked Rep. Swan to take the chair so he could give testimony regarding HB301. Rep. Speare moved DO PASS as amended. Motion carried DO PASS as amended.

HB306.. Rep. Stratton suggested the committee pass for the day and be given more consideration.

HB315..Rep. Payne moved DO NOT PASS. Motion carried.

HB320..Rep. Newby moved DO PASS. Rep. Bardanouve moved a substitute motion, DO PASS, but to be referred to the Appropriations Committee. Motion did not carry. The committee then voted on Mr. Newby's motion DO PASS. Motion carried.

HB321..Rep. Stratton moved DO PASS, as amended. Rep. Carl Smith moved as a substitute motion DO NOT PASS. Motion carried.

HB330..Rep. Feda moved DO NOT PASS. Motion carried.

HB348..Rep. Brand moved DO PASS. Rep Burnett moved DO PASS for the day and hold for consideration further. Motion carried.

HB353..Rep. Scott moved DO PASS. Rep. Swan moved a substitute motion, DO NOT PASS. Motion carried. DO NOT PASS.

HB427..Rep. Carl Smith moved DO PASS. Motion carried.

HB441..Rep. Burnett moved DO PASS. Rep. Bardanouve moved a substitute motion, DO PASS as amended. Motion carried.

HB487..Rep. Payne moved DO NOT PASS. Motion carried.

At this time, Rep. Burnett moved that the committee give reconsideration to HB321 which had received a DO NOT PASS vote. He asked that they delay final action until more information could be obtained. He so moved. Motion carried.

Rep. Burnett moved that HB321 pass consideration for the day. Chairman Ulmer appointed Rep. Burnett, Stratton and Payne and Bardanouve to the subcommittee.

Meeting adjourned at 12:35 P.M. until Tuesday, Feb. 4, 1969.

Walter J. Ulmer

WALTER J. ULMER, Chairman

1b

STATEMENT OF MONTANA TECHNICAL COUNCIL IN SUPPORT OF HOUSE BILL 301

My name is Walter S. Murfitt, an attorney of Helena, Montana, and the registered Lobbyist for the Montana Technical Council. The Technical Council is the coordinating council for Montana organizations of professional engineers and architects. The total membership in these member groups is approximately 1,000. The Technical Council supports the passage of House Bill 301.

History

Prior to the 1967 Legislative Assembly, there was a movement to standardize building requirements in the State of Montana for several reasons. Each city was empowered to adopt its own building code, the various departments of government including state agencies, counties and school districts each have their own standards. During the 1967 Legislative Assembly a resolution was adopted directing the Legislative Council to study the need for establishing uniform building standards in Montana. After many public hearings and an opportunity for all segments of the building industry to appear before the council, a final draft of suggested legislation was prepared. No formal action was taken by the Legislative Council to either accept or reject this legislation. With only two or three minor changes, the contents of House Bill 301 are as proposed by the Legislative Council.

General Outline

House Bill 301 creates a Building Code Council consisting of nine members (Sec. 3). Five of the members are appointed by the Governor and serve at his pleasure. These are appointed from the following groups: A licensed architect, professional engineer, a building contractor, a municipal building inspector and a member of the general public. The remaining four members serve for a period of three years and represent the Department of Health, the Electrical Board, the Plumbing Board and the State Fire Marshall's office. The State Controller is the Secretary of the Building Code Council and also the administrative officer.

Section 8 provides that the Council shall adopt by reference nationally recognized building codes in whole or in part and adopt rules prescribing standards or requirements for building instruction and when adopted shall constitute the State Building Code. It is authorized to make, amend or repeal, after public hearing, any provision of this Code, once adopted, and may vary or modify any provision or requirement in a particular situation. The particular purpose of this provision is to provide for building standards which are applicable to Montana or a particular geographic area within the State of Montana.

Municipalities

A municipality is defined as any incorporated city or town. Section 9 provides that the city or town may adopt a Municipal Building Code with standards equal to or greater than those established by the Building Code Council. The Section further provides that if the city or town does not by ordinance adopt, the code adopted by the council applies within that municipality. The application of the building code is confined to the city limits of a municipality which may be

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extended to four and one-half miles from the city limits if the municipality so requests. Outside of this jurisdictional area the code applies only to public places. Any person may petition the Building Code Council for a variance or modification of a building standard which requires a public hearing. If the person is aggrieved at the decision of the council, he is entitled to petition the District Court in the district in which the building is located for a review of that determination.

State Agencies

Sections 18 through 27 amend existing statutes concerning the Plumbing Code, the Electrical Code, the Fire Code and other sections concerned with building standards for school houses, health facilities and public buildings by providing that the building standards adopted by the Building Code Council shall be the building standards for those Boards.

Advantages

1. The public being the taxpayer or owner or purchaser of a building is assured that there is but one standard for the construction.

2. It eliminates the confusion which presently exists in municipalities and between state agencies and counties in the construction of public buildings.

3. Authority is given to the Building Code Council to change archaic and outmoded building requirements.

4. The Building Code Council has the authority to continually upgrade the construction standards and to adopt the use of due procedures and the use of new materials.

Fees and Permits

It is provided in the Bill that the permits required for construction will be obtained from the municipality and the fees prescribed by that municipality for such permits shall be paid to the municipality. The inspection is to be done by the local inspectors. There is no duplication of permits, fees or inspection.

Conclusion

The Montana Technical Council endorses and supports House Bill 301. Each of the state agencies involved and which will have one of its own people as a member of the Building Code Council has endorsed this legislation. After study and hearings, there are no other groups of which I have knowledge who are opposed to this legislation.

It is hoped that the committee will recommend its passage and approval to the House of Representatives.

February 24, 1969
8:00 A.M.

A regular meeting of the State Administration committee was called to order by Chairman James with a full committee present, in room 410 on the above date.

HOUSE BILL 301 was explained by Representative Walter J. Ulmer of Custer County, who stated this bill was the result of a Legislative Council study by a sub-committee under him. He stated the Council put it out without recommendation. The would furnish building code protection applying to any building that the public will have a "right to go in". The Building Codes Council would consist of people appointed by the Governor, plus ex-officio members representing building industries and state agencies that have something to do with building or building standards in Montana, and will adopt national building standards.

The city limits of any city are the boundaries for necessary inspections by the city; however, by City Council application to the Building Codes Council, to extend up to 4.5 miles outside these boundaries, buildings in this area may also be inspected. Buildings beyond these limits will be under the jurisdiction of the State Council, but the council will have the power to exclude the code where following these rules will cause a hardship, particularly in the case of remote areas.

Mr. Bill Murfitt, Montana Technical Council attorney, submitted a prepared statement attached hereto and marked "Exhibit A". He stated that under this bill, only one fee will be paid to cities. Therefore, there would be no change in the present practices in this regard.

Mr. Ben Hurlbert, Billings, Chairman of the Montana Technical Council; Mr. Phil Hauck, representing the State Architects Board, mentioned that the various agencies now involved in these problems operate on a matter of policy, rather than by law, and also stated his concern regarding the federal government moving in and setting up a uniform code if the state doesn't.

Other proponents were Mr. Clay Brink, Department of Health; Mr. Bill Pentila, the State Fire Marshal, Mr. Marty Krennen, AIA President and an architect; Mr. John Morrison, Jr., representing the Montana Society of Professional Engineers.

OPPONENTS: Mr. Tony Veazey, a registered professional engineer represented the Montana Association of Homebuilders, Missoula Chapter, and stated he was a past vice president of the forest service products corporation. Mr. Veazey submitted a prepared statement, attached, and marked "Exhibit B and Exhibit C". Mr. Veazey stated he represented approximately 100 to 125 dues-paying members in the Missoula group.

Page 6, Section 4, sub-section 1, line 3 of the original bill needs to read "sub-section 14" rather than "15".

Mr. Ulmer stated that the federal qualifications would only be imposed where federal monies were used for construction, subsidizing or insurance; this would include homes and other buildings.

HOUSE BILL 174 was explained by Representative Cashmore, who mentioned the Safety Code Commission appointed by the Governor and which composed this bill. Mr. Cashmore is a member of that group. He stated there are no general safety codes except in the oil and lumber industries, for example. He stressed the fact that both labor groups and management have worked together to draw up this bill and both are satisfied with it. No money from the state's general fund would be used; the funds of the Industrial Accident Board may be used. The fact that Montana ranks fourth highest in industrial accidents among the states, shows the need for an enforced uniform safety code.

Other PROPONENTS of the legislation were Mr. Tom Downing, member of the aforementioned commission and attorney who drew the bill; Mr. Jim Murray, Montana State AFL-CIO; Mr. Elton Hartze, member of the commission; Mr. Ben Haveal, Executive Director of the petroleum industry; Mr. Robert Helding, of St. Regis, representing the lumber industry of that area; Mr. Tony Softitch stated there is a bill before the federal government stipulating that the government shall enter in wherever a state has no existing safety codes in effect; Mr. Robert L. Rampy, President of Joint Council of Teamsters, stated the codes would be developed under the Industrial Accident Board, working with labor, management and industries; Mr. Hammond and Mr. Lou Brown. Mr. Downing submitted a proposed amendment to the bill which would be in addition to the amendment put in in the House of Representatives. Mr. Murray stated this amendment met with the approval of all concerned.

HOUSE BILL 303 - Representative Scott Stratton, District No. 18, Cascade County, explained this was a housekeeping bill providing an updating of regulations of dental practices, defining dental hygienists and bringing them under this act.

PROPONENTS: Dr. Richard C. Ritter, President of the Montana State Dental Association, stated there was nothing restrictive in this act which would make applicants want to go to another state and also stated that this bill changes the examination and relicensure fees. Dr. Henry B. Lorentz spoke in favor as did Dr. Jack Terrill and Mr. L. R. Hegland, Executive Secretary of the Montana State Dental Association. It was agreed among the committee and the witnesses that having only an annual examination is confining to someone from out of state who wishes to practice in Montana.

HOUSE BILL 494, sub-committee report by Senator Mitchell, included the committee hearing comments from Mr. Lillis L. Waylett and Mr. Harold J. Boyd, coordinator of the Department of Indian Affairs as well as the sponsor of the bill, Mr. Harlow. Mr. Waylett stated he is the elected President of the Helena Indian Alliance comprised of some 84 families in Helena; a charter member and director of the

Exhibit a

[illegible]

[illegible]

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The Montana Technical Council endorses and supports House Bill 301. Each of the state agencies involved and which will have one of its own people as a member of the Building Code Council has endorsed this legislation. After study and hearings, there are no other groups of which I have knowledge who are opposed to this legislation.

It is hoped that the committee will recommend its passage and approval to the House of Representatives.

MONTANA HOME BUILDERS ASSOCIATION

Missoula, Montana
February 15, 1969

TO: Senate Committee on State Administration

RE: HB 301 - To establish statewide building construction standards.

The Montana Home Builders Association is in complete agreement with the objectives of this bill, which is to provide basic and uniform performance standards in building construction, but wishes to express concern regarding certain provision of the bill:

Section 9 provides virtual local autonomy in establishing building codes more restrictive than the state code. Such autonomy can result in a crazy-quilt of local building and mechanical codes which discourage technical innovation, add to the cost of construction and increase building time. The Montana Home Builders Association recommends that the provisions of the state code shall be applicable without modification throughout each municipality of the state if that municipality fails to adopt a nationally recognized model code.

Section 14 — Responsibility for inspection and approval should carry with it responsibility for using trained, licensed inspectors. Montana Home Builders Association recommends that the act provide for statewide training and licensing programs for local building inspectors, technical assistance to local governments and statewide appeals mechanisms for reconciling differences arising through code interpretation at the local level.

Section 6 — in its provisions for enforcing the order of the State Building Code Council, for inspecting buildings, testing and approving construction materials and methods, and advising other agencies of state and local government, industries, etc. makes no provision for employment of necessary staff, nor for establishing their qualifications, which would be a most

important consideration.

Nowhere does there appear provision for funding the work of the Council.

Section 22 insofar as it would establish standards for admission requirements to nursing homes, medical records, diet, etc. would not seem properly included in a building code law. Montana Home Builders Association suggest that Subsection (2), items (b) through (k) be deleted and dealt with elsewhere.

Section 10 will require application for building permits, but outside of municipalities, is not specific as to who shall handle applications or issue permits. Section 4 (1) states that the act applies to "public places", which includes any place where the public has a right to go and be. Accordingly, most light commercial construction would appear to come under the proposed regulations, Within municipalities, permit procedures are established. Outside, no provision is apparent.

Section 14 (4) provides that each municipality may issue certificates of occupancy certifying compliance with all requirements, but includes no provision for appeal from a local building inspector's ruling. Montana Home Builders Association urges that review and appeal procedures be spelled out.

In Section 3, relative to appointment of members, under Subsection (1) (b), Montana Home Builders Association recommends that the four members to be named be required to be qualified by virtue of experience, training or education in their fields.

Tony Veazey
Vice-President, Montana Home Builders Association
and President, Missoula Chapter NAHB
By: Donald F. Tomlinson, Director, Montana Home Builders Association

Donald F. Tomlinson

TONY VEAZEY
Engineer & Constructor
3710 RAYMOND AVENUE
MISSOULA, MONTANA 59801
AREA CODE 406 . 543-4768

Senate Committee on State Administration
State Capitol
Helena, Montana

Gentlemen:

RE: HB301 - An Act to Establish
Statewide Building Standards

As a registered professional engineer (Mont. No. 1393E), and past national president of the Forest Products Research Society, I wish to add my personal endorsement to the recommendations on the above bill which has been submitted to you, over my signature, on behalf of the Montana Association of Home Builders.

The Association's recommendations reflect in large part the findings and recommendations of the President's Commission on Urban Housing, and of the Task Force on Codes of the National Association of Home Builders.

The suggestions concerning qualifications of board and administrative personnel, and appeals procedures, stem from a careful study of the Montana bill in the light of what has occurred elswhere in the country, and your earnest consideration of these suggestions and recommendations is urged.

Respectfully yours,

Tony Veazey
TV:bw

February 24, 1969
Adjournment

A meeting of the State Administration committee was called to order by Chairman James on the above date with a quorum present.

Senator James introduced Mr. Ted Schwinden, nominee for the appointment to Commissioner of State Lands and Investments, and stated Mr. Schwinden would be glad to answer any questions from the committee. He mentioned that he had some legislative experience in addition to his other qualifications.

HOUSE BILL 303 BE CONCURRED IN was moved by Senator McDonald, seconded by Senator Rosell and unanimously carried.

HOUSE BILL 301 BE CONCURRED IN was moved by Senator Mitchell and seconded by Senator Lyon. A substitute motion that HOUSE BILL 301 BE NOT CONCURRED IN was made by Senator Nees and seconded by Senator McKeon. Following discussion, the substitute motion was voted on and lost. Senator Mitchell and Senator Lyon withdrew their motion in defference to Senator Rostad, who moved the bill be put into sub-committee; seconded by Senator McDonald and carried. The Chairman appointed Senator Rosell and Senator McDonald to the sub-committee to work on amendments.

HOUSE JOINT RESOLUTION 23 BE NOT CONCURRED IN was moved by Senator McKeon, seconded by Senator Rostad and carried.

HOUSE BILL 236 be brought back into committee for further consideration was moved by Senator McKeon, seconded by Senator McDonald and carried. This bill deals with public employees per diem and mileage. Senator McKeon moved amendments to the bill to change the proposed in-state per diem to $13.50 per day, and the out-of-state per diem to $22.50 per day; Senator Mitchell seconded and the motion carried.

HOUSE BILL 236 AS AMENDED BE CONCURRED IN was moved by Senator McKeon, seconded by Senator McDonald and carried.

The meeting was adjourned.

James JAMES

February 26, 1969
8:00 a.m.

A regular meeting of the State Administration Committee was called to order by Chairman James in Room 410 on the above date.

HOUSE JOINT RESOLUTION NO. 22 was explained by Representative Abert, who stated this would cause a study to be made of Indian problems throughout the entire state and pointed out particular parts of the bill.

HOUSE JOINT RESOLUTION NO. 16, regarding the facility at Galen, was discussed by Mr. Ed Kellner, Director of the Department of Institutions. Mr. Kellner spoke as a proponent of the legislation and submitted an amendment for the consideration of the committee, which he said met with the approval of the author, Representative Wayrynen. Mr. George Hammond spoke in favor of the legislation but stressed his concern that the staff at Galen should continue to be furnished housing facilities.

Mr. Sidney T. Smith, Billings, was introduced to the committee as the Governor's nominee to the position of Commissioner of Labor and Industry, and gave a resume of his qualifications for holding this position. Among them were: the position of being a rate expert for the Railroad and Public Service Commission, Chief of Sales and Warehousing for the War Assets Administration; real estate, appraisal and insurance agency of his own for many years, frequently the chairman of condemnation proceedings for the County Commissioners, head of a large fraternal organization of several states, as well as a long time member and officer of it, and others.

HOUSE JOINT RESOLUTION NO. 16 amendments were adopted. The motion was made by Senator McKeon, seconded by Senator Mackay and carried. HOUSE JOINT RESOLUTION NO. 16 AS AMENDED BE CONCURRED IN was moved by Senator McKeon, seconded by Senator Mackay and carried.

HOUSE JOINT RESOLUTION NO. 22 BE CONCURRED IN was moved by Senator Mitchell, seconded by Senator Lyon and carried.

HOUSE BILL NO. 511 BE CONCURRED IN was moved by Senator Mackay, seconded by Senator McDonald and carried.

HOUSE BILL NO. 301 BE CONCURRED IN was moved by Senator McKeon, seconded by Senator Mitchell, and carried.

HOUSE BILL NO. 441 was reported on by the subcommittee of Senator McKeon, who submitted proposed amendments to the bill. Following discussion of the amendments, Senator McKeon moved the adoption of the amendments, seconded by Senator Mackay and carried unanimously.

Amendments to the per diem for those other than the Governor, setting the amounts at $13.50 and $22.50, to conform with a previous bill in the committee, were moved be adopted by Senator McKeon, seconded by Senator Mackay and carried.

Senator Rostad moved and Senator Mackay seconded that Senator McKeon be authorized to work with the Governor's office and use any necessary amendments to HOUSE BILL NO. 441, which had been discussed by the committee. The motion was duly carried.

HOUSE BILL NO. 174 BE NOT CONCURRED IN was moved by Senator Rosell, seconded by Senator Rostad and unanimously carried.

HOUSE BILL NO. 494 subcommittee report was made by Senator Mitchell. Two members of the Montana Tribal Council for Indians asked to be heard on the bill and were granted this consideration. Mr. Leslie Fourstar, from the Fort Peck Reservation and Mr. Mathew Two Moons, representing the Northern Cheyenne appeared as opponents to the bill, as they felt the off-reservation Indians should be considered only on a state wide basis. The Intertribal Policy Board was mentioned as not being utilized to the fullest. Mr. Fourstar stated that at present each of the seven reservations has one member and the off-reservation Indians have one vote on the council. The committee decided the proposed amendment made by the subcommittee would not be workable, whereupon Senator McKeon moved and Senator Lyon seconded HOUSE BILL NO. 494 BE NOT CONCURRED IN. The motion carried with two dissenting votes.

HOUSE BILL NO. 381, publication of state notices, was reported on by the subcommittee of Senator McDonald, who cited statistics showing that under this bill the cost of state printing would increase about two-fifths of the present cost. The committee felt the cost of county printing has increased too much under a like plan. Senator McKeon moved HOUSE BILL NO. 381 BE NOT CONCURRED IN, seconded by Senator Mitchell and unanimously carried.

HOUSE BILL NO. 301 was moved to be reconsidered by the committee by Senator Rosell and seconded, however, the motion was defeated.

HOUSE BILL NO. 176, Registrar of Motor Vehicle lists, was discussed with Senator Lyon requesting time to speak to Representative Bardanouve before the committee takes action. Senator McKeon moved that he and Senator Lyon be designated to speak with Representative Bardanouve and that the chair be bound to reporting HOUSE BILL NO. 176 BE NOT CONCURRED IN. The motion was duly seconded and carried.

☐ DO PASS
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☐ BE NOT ADOPTED

STANDING COMMITTEE REPORT

February 26, 19 79

MR. President :

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 301

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A STATEWIDE BUILDING CONSTRUCTION STANDARDS; AMENDING SECTIONS 66-2416, 66-2802, 69-4117, 69-5212, 69-5213, 69-5216, 82-1202, 82-1202.1, AND 82-1202.2, R.C.M. 1947; REPEALING SECTIONS 66-2424, 66-2818, 69-2101 THROUGH 69-2103, 69-3701 THROUGH 69-3719, AND 85-3103, R.C.M. 1947."

Respectfully report as follows: That HOUSE Bill No. 301

BE CONCURRED IN

DO PASS

School districts created by consolidation or annexation shall be governed by the general school laws of the state.

Bonded indebtedness of any district resulting from merger by consolidation, or annexation shall remain the indebtedness and obligation of the district which originally incurred such bonded indebtedness and be paid by levies imposed upon property therein.''

Effective immediately.

Section 2. This act is effective on its passage and approval.

Approved: March 14, 1969.

CHAPTER NO. 365

An Act to Provide That a Prayer May Be Used to Open the School Day in the Public Schools.

Be it enacted by the Legislative Assembly of the State of Montana:

Prayer may be used to open the school day.

Section 1. Any member of the teaching or administrative staff of a public school may open the school day with a prayer.

Approved: March 14, 1969.

CHAPTER NO. 366

An Act to Establish a Statewide Building Construction Standards; Amending Sections 66-2416, 66-2802, 69-4117, 69-5212, 69-5213, 69-5216, 82-1202, 82-1202.1, and 82-1202.2, R.C.M. 1947; Repealing Sections 66-2424, 66-2818, 69-2101 Through 69-2103, 69-3701 Through 69-3719, and 75-3103, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Statewide building construction standards established.

Section 1. It is essential that building codes be adopted and enforced to protect the health and safety of the residents of this state, but buildings should be permitted to be constructed at the least possible cost consistent with recognized standards of health and safety. Among the factors complicating construction are various laws, ordinances, rules, regulations, and codes regulating the con-

struction of buildings and the use of materials in those buildings. Many requirements are obsolete and unnecessarily complex. They serve to make construction more complex, without providing correlative benefits or safety to owners, builders, tenants, and users of buildings. It is the purpose of this act to institute the preparation of a state code of building construction to provide, so far as may be practicable, basic and uniform performance standards. Thus, while establishing reasonable safeguards for the health and safety of the occupants and users of buildings, the use of modern methods, devices, materials, and techniques will be encouraged. This should be effective in protecting the public interest in the field of construction.

Section 2. As used in this act, unless the context clearly indicates otherwise:

(1) ''Council'' means the state building code council created by this act. "Council."

(2) ''Municipality'' means any incorporated city or town and its jurisdictional area as defined by subsection (13) of this section. "Municipality."

(3) ''Building regulations'' means any law, rule, resolution, regulation, ordinance, or code, general or special, or compilation thereof, enacted or adopted by the state or any municipality, including departments, boards, bureaus, commissions, or other agencies of the state or a municipality relating to the design, construction, reconstruction, alteration, conversion, repair, inspection, or use of buildings and installation of equipment in buildings. The term does not include zoning ordinances. "Building regulations."

(4) ''Department'' means the department of administration. "Department."

(5) ''Local building department'' means the agency or agencies of any municipality charged with the administration, supervision, or enforcement of building regulations, approval of plans, inspection of buildings, or the issuance of permits, licenses, certificates and similar documents, prescribed or required by state or local building regulations. "Local building department."

(6) ''State agency'' means any state officer, depart- "State agency."

ment, board, bureau, commission, or other agency of this state.

"Building." (7) "Building" means a combination of any materials, whether mobile, portable, or fixed to form a structure and the related facilities for the use or occupancy by persons, or property. The word "building" shall be construed as though followed by the words "or part or parts thereof."

"Equipment." (8) "Equipment" means plumbing, heating, electrical, ventilating, air conditioning, and refrigerating equipment, elevators, dumb waiters, escalators, and other mechanical additions or installations.

"Construction." (9) "Construction" means the original construction, and equipment of buildings, and requirements or standards relating to or affecting materials used including provisions for safety and sanitary conditions.

"Owner." (10) "Owner" means the owner or owners of the premises or lesser estate, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or other person, firm, or corporation, in control of a building.

"Local legislative body." (11) "Local legislative body" means the council or commission charged with governing the municipality.

"State building code." (12) "State building code" means the state building code provided for in section 8 of this act or any portion of the code of limited application, and any of its modifications or amendments.

"Municipal jurisdictional area." (13) "Municipal jurisdictional area" means the area within the limits of an incorporated municipality unless the area is extended at the written request of a municipality. Upon request the council may approve extension of the jurisdictional area to include all or part of the area within four and one-half (4½) miles of the corporate limits of a municipality, measured in a straight line in a horizontal plane.

"Public place." (14) "Public place" means any place which a municipality or state maintains for the use of the public, or a place where the public has a right to go and be.

Building code council. Section 3. (1) There is hereby created a state building code council of nine (9) members as follows:

(a) five (5) members appointed by the governor and who serve at his pleasure including one (1) member who is a licensed architect; one (1) member who is a professional engineer; one (1) member who is a building contractor; one (1) member who is a municipal building inspector; and one (1) member of the public who does not hold any elective or other public office and who is not a licensed architect, professional engineer, or building contractor;

(b) four (4) members as follows:

(i) the executive officer of the department of health or a person designated by him;

(ii) one (1) member named by the state electrical board;

(iii) one (1) member named by the board of plumbing examiners;

(iv) the state fire marshal or a person appointed by him.

Term. (2) Members appointed under subsection (1) (b) of this section shall serve for a term fixed by the appointing authority of not more than three (3) years and the members may be reappointed.

(3) The state controller shall serve as secretary of the council. The council shall elect a chairman from among its members.

(4) A member of the council shall receive reimbursement for necessary and actual expenses incurred in his official service on the council. Council members who are not government employees shall receive twenty dollars ($20) per diem for each day of official service on the council.

(5) The council shall meet at the call of the chairman or at the written request of three (3) members, but it shall meet at least once each year.

Outside municipalities. Section 4. (1) Outside municipalities and their jurisdictional area as defined by section 2, subsection (13) of this act, this act applies to "public places" as defined in section 2, subsection (15) of this act.

(2) Where good and sufficient cause exists, a written

request for limitation of the state building code may be filed with the state controller for filing as a permanent record in his office. He shall submit the request to the council. The council may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings, according to use, or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing therein, or other factors which make differentiation or separate classification or regulation necessary, proper, or desirable.

Administration of act.

Section 5. As directed by the council, the state controller shall administer this act through a division of the department of administration.

Duties of state controller.

Section 6. The state controller shall, under the guidance of the council:

(1) issue orders necessary to effectuate the purposes of this act and enforce the orders by all appropriate administrative and judicial proceedings;

(2) enter, inspect, and examine buildings or premises necessary for the proper performance of his duties under this act or appoint deputies to enter, inspect and examine.

(3) study the operation of the state building code, local building regulations, and other laws related to the construction of buildings to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health and safety;

(4) recommend tests or require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the state building code and issue certification of such acceptability;

(5) appoint experts, consultants, technical advisers, and advisory committees for assistance and recommendations relative to the formulation and adoption of the state building code;

(6) advise, consult, and cooperate with the council and other agencies of the state, local governments, industries, and interested persons or groups;

(7) make rules for the organization and internal management of the division.

Objectives and standards of code.

Section 7. The state building code shall be designed to effectuate the general purposes of this act and the following specific objectives and standards to:

(1) provide reasonably uniform standards and requirements for construction and construction materials, consonant with accepted standards of design, engineering and fire prevention practices;

(2) permit to the fullest extent feasible, the use of modern technical methods, devices, and improvements which tend to reduce the cost of construction consistent with reasonable requirements for the health and safety of the occupants or users of buildings;

(3) eliminate restrictive, obsolete, conflicting, and unnecessary building regulations and requirements which tend to increase unnecessarily construction costs or retard unnecessarily the use of proven new materials which have been found adequate through experience or testing, or provide unwarranted preferential treatment to types or classes of materials or products or methods of construction;

(4) insure that buildings constructed with public funds are accessible to, and functional for, physically handicapped persons where practicable and feasible.

Adoption of national building codes.

Section 8. (1) The council shall adopt by reference nationally recognized building codes in whole or in part, amend, and repeal rules relating to the construction of all buildings or classes of buildings or the installation of equipment in those buildings, and may by rule prescribe standards or requirements for materials to be used in buildings including provisions dealing with safety and sanitation. The rules, when adopted as provided in this act, constitute the "state building code" and shall be acceptable for the buildings to which it is applicable.

(2) The council may hold hearings relating to the

administration of this act and compel the attendance of witnesses and the production of evidence.

(3) Except as provided in subsection (4) of this section, no rule and no amendment or repeal of the state building code shall take effect until after a public hearing by the council. Notice of the time and place of the hearing shall be published at least three (3) times in at least two (2) newspapers of general circulation throughout the state. The last published notice shall appear not less than fifteen (15) days before the public hearing.

(4) If a hearing has been held by the state fire marshal, state plumbing board, state board of health, or state electrical board on a proposed rule relating to building and equipment standards in their respective fields, a public hearing by the council is not required. The proposed rule is effective upon approval of the council and filing with the secretary of state as a part of the state building code.

(5) If a rule relating to building or equipment standards is proposed by the state fire marshal, state plumbing board, state board of health, or state electrical board which conflicts with the state building code, the council shall modify the proposed rule or the state building code to resolve the conflict after consultation with the state agencies affected.

(6) Nothing in this section requires a hearing prior to the issuance of an emergency order pursuant to the provisions of this act.

(7) The text of any proposed rule or modification, amendment, or repeal of a rule shall be made available for inspection at the office of the department and shall be distributed to state agencies, local building departments, state and municipal law officers, and to other interested persons or groups upon request.

(8) Every rule or modification, amendment, or repeal of a rule adopted by the council shall state the date on which it takes effect.

(9) Every rule or modification, amendment, or repeal of a rule, shall be certified by the council and transmitted to the secretary of state for filing in that office. Upon filing, the rule has the force and effect of law, and the state building code is amended to that extent. Copies shall be

sent by the state controller to all state and municipal officers having jurisdiction over the construction of buildings affected. Copies shall also be mailed to any person upon request.

(10) The provisions of this section shall not apply to any rule applicable solely to the organization or internal management of the department.

Municipal building code.

Section 9. (1) The local legislative body of a municipality may adopt a municipal building code by ordinance to apply to the municipal jurisdictional area. A municipal building code shall require standards equal to those of the state building code or higher standards. A municipal building code must cover all general areas included in the state building code.

(2) If a municipality does not adopt a municipal building code as provided in subsection (1) of this section, the state building code applies within the municipal jurisdictional area.

(3) The council shall determine whether a municipal building code has standards equal to those of the state building code or higher standards and notify municipalities immediately if any municipal standards are below the state standards.

(4) If a municipal code is adopted, a copy of the code and any amendments to the code shall be filed with the council.

Permit.

Section 10. After the effective date of this act, any person who desires to construct a building which is subject to the provisions of this act must apply for a permit from the appropriate authorities.

Power of council.

Section 11. (1) The council has the power on satisfactory proof, after a public hearing to:

(a) vary or modify, in whole or part, the application of any provision or requirement of the state building code if strict compliance would cause any undue hardship; but no variance or modification shall affect adversely provisions for health, safety, and security and equally safe and proper alternatives may be prescribed therefor;

(b) reverse, modify, or annul, in whole or part, any ruling, direction, determination, or order of any state

agency affecting or relating to the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state building code;

(c) review within thirty (30) days after disapproval, any application for permission for the construction of a building pursuant to the provisions of the state building code, or plans or specifications submitted in connection therewith;

(d) reverse, modify, or annul the disapproval in whole or part;

(e) within thirty (30) days, make a determination that the application or plans or specifications are in compliance with the provisions of the state building code. If this determination is made, the officer charged with the duty shall issue any permit, license, certificate, authorization, or other document required for the construction.

(2) An application for a varience, modification, reversal, annulment, or review may be made by any person aggrieved and pursuant to the procedure, conditions and rules as prescribed by the council. The council shall fix a time for the hearing of an application and shall require that due notice of the time and place of the hearing be given to the applicant, the state agency or other person involved, and other aggrieved persons concerned. Any person involved or any authorized representative of any state agency may appear at the hearing and be heard on the application.

(a) The council or its secretary has the power to administer oaths, certify all official acts and issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony in any hearing in any part of the state in like manner and to the same extent as courts of record. Service of said subpoenas shall be in a manner preseribed by the Montana Rules of Civil Procedure. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the council, or its secretary may petition the district court in which the hearing is pending, setting forth that due notice has been given of the time and place fixed for the attendance of said witness, or the production of said papers, and that the witness has been served as required, and that the witness

has failed and refused to attend, or produce the papers required by the subpoena before the council in the hearing in the notice and subpoena, or has refused to answer questions propounded to him in the course of such hearing, and ask an order of said court compelling the witness to attend or testify or produce said papers before the council. The court shall enter an order directing the witness to appear before the court at a time and date not more than ten (10) days from the date of the order and then and there show cause why he had not attended or testified or produced such papers before the council. A copy of such order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the council or its secretary and regularly served, the court shall thereupon enter an order that said witness appear at the time and place fixed in said order and testify or produce the required papers and upon failure to obey said order said witness shall be dealt with as for contempt of court.

(b) An application for a variance, modification, reversal, annulment, or review shall stay all proceedings in furtherance of the action appealed from unless there is a showing by the state agency that a stay would involve imminent peril to life or porperty.

(c) The council, in hearings conducted under this section, shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure.

(d) Applications shall be decided on promptly. In every case the council shall state generally the reason or reasons for its decision.

(e) All decisions of the council require concurrence of at least five (5) of its members to become effective.

(f) The decision of the council shall state the date on which it takes effect, and a certified copy thereof shall be filed as a public record in the office of the department and a copy shall be sent to the parties and to all state agencies affected.

(g) The council shall prepare a written record of the hearing. All evidence, including records and documents in the possession of the council of which it desires to avail itself in deciding the question shall be offered

and made a part of the record of the hearing, and no other information or evidence shall be considered in the decision of the application.

Judicial review.

Section 12. **Judicial review.** (1) Within thirty (30) days after the mailing of notice of a decision by the council, any party in interest who appeared before the council may, in a proceeding in the nature of a writ of review, apply to the district court in the district in which the building is located for review of the decision of the council. Such application shall not operate to stay or postpone the enforcement of the decision of the council except as the council or court may direct.

(2) The application must be made on affidavit and the court may require notice of the application to be given to the council and all adverse parties, if any, or may grant an order to show cause why review should not be allowed.

(3) A copy of the application and all accompanying papers shall be served upon the council and upon all adverse parties, if any there shall be, in the manner as a summons in a civil action.

(4) The court, after proper showing, may order the council at a specified time and place to fully certify the entire record of the hearing had before it, including copies of all documents and records in its possession used in reaching its decision, that the same may be reviewed.

(5) When a full return has been made, the court must hear the parties, or such of them as may attend for that purpose, and may thereupon give judgment either affirming, or annulling or modifying the proceedings below.

(6) Any party to the proceedings in the district court may appeal from its decision to the supreme court of the state of Montana in the same manner as appeals are now taken in other civil actions.

(7) Upon a final determination, the council shall enter a decision in accordance with the determination. A record of all decisions of the council, properly indexed, shall be kept in the office of the state controller and shall be open to public inspection at all times during business hours.

Appellate procedure for municipal code.

Section 13. If a municipality adopts a municipal building code, it shall also establish an appeal procedure by ordinance which is acceptable to the council. If a municipality does not adopt a code, appeals on the application of the state building code within the municipal jurisdictional area shall be made to the council.

Responsibility of municipality.

Section 14. The examination and approval or disapproval of plans and specifications, the issuance and revocation of building permits, licenses, certificates, and similar documents, the inspection of buildings and the administration and enforcement of building regulations within the municipal jurisdictional area shall be the responsibility of the municipalities of the state. Each municipality may:

(1) Examine and approve or disapprove plans and specifications for the construction of any building, the construction of which is pursuant or purports to be pursuant to the provisions of the state or municipal building code, and direct the inspection of the buildings during and in the course of construction.

(2) Require that construction of buildings be in accordance with the applicable provisions of the state or municipal building code, subject to the powers of variance or modification granted to the state building code council.

(3) Order in writing the remedying of any condition found to exist in, on, or about any building in violation of the state or municipal building code. Orders may be served upon the owner or his authorized agent personally or by sending by registered mail a copy of the order to the owner or his authorized agent at the address set forth in the application for permission for the construction of the building. Any local building department, by action of an authorized officer, may grant in writing such time as may be reasonably necessary for achieving compliance with the order.

(4) Issue certificates of occupancy, permits, licenses, and such other documents in connection with the construction of the buildings as required. A certificate of occupancy for a building constructed in accordance with the provisions of the state or municipal building code shall certify that the building conforms to the require-

ments of the building regulations applicable to it. Every certificate of occupancy, unless and until set aside or vacated by a court of competent jurisdiction, is binding and conclusive upon all municipal agencies, as to all matters set forth and no order, directive, or requirement at variance therewith may be made or issued by any other state or municipal agency.

(5) Make, amend, and repeal rules for the administration and enforcement of the provisions of this section, and for the collection of reasonable fees, which shall be comparable to fees imposed or prescribed by existing local building regulations.

(6) Prohibit the commencement of construction until a permit has been issued by the local building department after a showing of compliance with the requirements of the applicable provisions of the state or municipal building code.

Power of district court to enjoin construction.

Section 15. The construction or use of the building in violation of any provision of the state or municipal building code or any lawful order of a state building official or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located. This section will be governed by the Montana Rules of Civil Procedure.

Failure to comply.

Section 16. Any person, served with an order pursuant to the provisions of this act, who fails to comply with the order not later than thirty (30) days after service or within the time fixed by the state controller or a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of the state building code or a municipal building code is guilty of a misdemeanor.

Rules and standards in effect.

Section 17. (1) Rules and standards adopted by the state board of health, state electrical board, board of plumbing examiners, and state fire marshal which are in force on the effective date of this act shall continue in force unless changed by the council.

(2) Except as provided in subsection (3) of this section, building and equipment standards not in force on the effective date of this act shall not apply to buildings existing or under construction on July 1, 1969.

(3) If any building presents a clear and present danger to human life, this act shall apply although the buildings existed or were under construction on July 1, 1969.

(4) The council shall determine if a building is under construction on July 1, 1969, based upon uniform criteria established by the council.

Section 18. Section 66-2416, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2416. **Minimum standards—state plumbing code—fee for copy of code.** *(1)* The state plumbing board shall, by *rule*, prescribe minimum standards which shall be uniform and which standards shall thereafter be effective for all new plumbing installations; such *rules* shall contain the minimum requirements for plumbing as set forth in the American standard national plumbing code, numbered ASA A40.8-1955, and published by the American society of mechanical engineers. *Except as provided in subsection (2) of this section,* upon approval of the state board of health and the attorney general and their legal publication, *the rules* shall be the state plumbing code and shall have the force of law. A copy of the code shall be supplied to each person licensed under the provisions of *sections 66-2401 to 66-2411 R.C.M. 1947,* of the laws of the state of Montana, or any other interested person, for a fee of no more than five dollars *($5)*. Minimum standards of state plumbing code.

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Section 19. Section 66-2802, R.C.M. 1947, is amended to read as follows: Amending clause.

"66-2802. **Purpose.** *(1)* The purpose of this act is to protect the health and safety of the people of Montana from the danger of electrically caused shocks, fires and explosions and to protect property from the hazard of electrically caused fires and explosions, and to estab- Purpose.

lish a procedure for determining where and by whom electrical installations are to be made and to assure the public that persons making electrical installations are qualified, and that the electrical installations and electrical products made and sold within this state meet minimum safety standards. From and after the taking effect of this act, all installations in the state of Montana of wires and equipment to convey electric current and installations of apparatus to be operated by such current, except as hereinafter provided, shall be made substantially in accord with the National Electrical Code, as approved by the American standards association, relating to such work as far as the same covers both fire and personal injury hazards, and as the National Electrical Code shall be amended, revised, compiled and published from time to time and as such amendments or revisions are adopted by the board.

(2) Rules and standards relating to buildings and equipment covered by the state or a municipal building code are not effective until approved by the state building code council and filed with the secretary of state."

Amending clause.

Section 20. Section 69-4117, R.C.M. 1947, is amended to read as follows:

Schoolhouses—rules.

"69-4117. **Schoolhouses—rules for lighting, heating, ventiliation and sanitary arrangements.** *(1)* The state board shall adopt rules for lighting, heating, ventilation, plumbing and sanitary arrangements for schoolhouses. Before any schoolhouse is constructed, plans must be submitted to the department for approval. A schoolhouse must conform to the rules adopted by the state board before being used.

(2) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Amending clause.

Section 21. Section 69-5212, R.C.M. 1947, is amended to read as follows:

Alteration or addition—approval of plans.

"69-5212. **Alteration or addition to facility—approval of plans and specifications by the state board of health.** The state board may adopt rules to require an applicant or licensee who contemplates alteration or addition to a

facility to submit plans and specifications to the department for preliminary inspection and approval prior to commencing construction. *Approval may be given only if the plans and specifications conform to the state or the municipal building code which applies to the facility."*

Amending clause.

Section 22. Section 69-5213, R.C.M. 1947, is amended to read as follows:

Rules and standards for long-term care facilities.

"69-5213. **Rules and standards for long-term care facilities—adoption and publication by the state board of health.** (1) *Subject to the provisions of subsection (4) of this section, the* board shall adopt and publish rules and minimum standards for all long-term care facilities distinguishing between those for nursing care, personal care, sheltered care, and facilities providing combinations thereof.

(2) Standards shall relate to:

(a) location and construction of the facility including plumbing, heating, lighting, ventilation, and other conditions affecting the health, safety, or comfort of residents;

(b) number and qualifications of personnel;

(c) sanitary conditions including water supply, sewage disposal, food handling, laundries, and general hygiene;

(d) diet based on good nutritional practice, needs of residents, and recommendations of attending physicians;

(e) fixtures and equipment essential to the health and safety of residents;

(f) age and physical requirements for admission;

(g) records of residents' medical history, funds, property, and contract with the operator or manager;

(h) medical supervision and resident care including use of physical restraints;

(i) reporting of contagious diseases, epidemics, or food poisoning;

(j) administration including the storage and handling of medications, narcotics, barbiturates, and compressed gases;

(k) visiting hours and areas.

(3) All long-term care facilities of nonfire-resistant construction, of two (2) stories or more in height having ten (10) or more residents, must have an automatic sprinkler system approved by the state fire marshal. The fire marshal shall furnish the state board with certificates of compliance with fire protection rules and standards.

(4) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Amending clause.

Section 23. Section 69-5216, R.C.M. 1947, is amended to read as follows:

Rules and standards—licensed facilities.

"69-5216. **Rules and standards for facilities licensed under this chapter.** With the advice of the hospital and long-term care facility advisory council, the state board shall adopt rules and standards for facilities licensed under this chapter. *Rules and standards for buildings and equipment must conform to the state or municipal building code which applies to the facility.* The department shall extend a reasonable time for compliance with rules after adoption by the state board."

Amending clause.

Section 24. Section 82-1202, R.C.M. 1947, is amended to read as follows:

Powers of state fire marshal.

"82-1202. **Powers of the state fire marshal.** The state fire marshal shall: (1) Make at least one inspection during every year, of each state institution, and submit a copy of the report to the state department of institutions with recommendations in regard to fire prevention, fire protection and to the public safety.

(2) Make at least one inspection during every year, of each unit of the Montana university system, and submit a copy of the report to the executive secretary of the university system with recommendations in regard to fire prevention, fire protection and to the public safety.

(3) Inspect public, business, or industrial buildings and require conformance to law or rules promulgated under the provisions of this act.

(4) Do all things necessary and convenient for carrying into effect the fire prevention laws of this state gov-

erning this act and may, *adopt* necessary rules for safeguarding lives and property from the hazards of fire and explosion after consultation with the fire prevention advisory commission and approval by the commissioner of insurance. No rule shall become effective until after a public hearing held in the manner described in *82-1202.2 R.C.M. 1947.* If fire prevention rules are violated, *the fire marshall* may maintain an action to enjoin the use of all or a portion of a building or facility, or restrain a specific activity, until there is compliance with the rules.

(5) Rules relating to building and equipment standards covered by the state or a municipal building code are effective after approval by the state building code council and filing with the secretary of state."

Amending clause.

Section 25. Section 82-1201.1, R.C.M. 1947, is amended to read as follows:

Rules of state fire marshal.

"82-1202.1 **Rules promulgated by state fire marshal—adoption of other standards.** (1) Rules promulgated by the state fire marshal by authority of section 82-1202, R.C.M. 1947, shall establish minimum standards of fire protection requirements, including but not limited to requirements for design, construction, installation, operation, storage, handling, maintenance or use of the following: structural requirements for various types of construction; building restrictions within congested districts; exit facilities from structures; fire alarm systems and fire extinguishing systems; fire emergency drills; flue and chimney construction; heating devices; electrical wiring and equipment; air conditioning, ventilating and other duct systems; refrigeration systems; flammable liquids; oil and gas wells; application of flammable finishes; explosives, acetylene, liquefied petroleum gas and similar products; calcium carbide and acetylene generators; flammable motion picture film, combustible fibres; hazardous chemicals; rubbish, open flame devices; parking of vehicles; dust explosions; lightning protection; and other special fire hazards.

(2) If rules relate to building and equipment standards covered by the state or a municipal building code, the rules are effective upon approval of the state building code council and filing with the secretary of state.

(3) Standards of the National Fire Protection Association, United States Bureau of Standards, American Insurance Association Standards may be adopted in whole or in part by reference."

Amending clause.

Section 26. Section 82-1202.2, R.C.M. 1947, is amended to read as follows:

Notice of hearing—publication—rules—effective date.

"82-1202.2 **Notice of public hearing — publication — adoption of rules—effective date.** Notice of the time and place of public hearing required by section 82-1202, R.C.M. 1947, shall be published at least five (5) times in at least two (2) newspapers of general circulation throughout the state. The last published notice shall appear not less than fifteen (15) days prior to the public hearing. A copy of the notice of public hearing shall be furnished by mail to any person who files his address with the fire marshal together with a request for such notification. Any person may appear before the state fire marshal and present testimony on proposed rules in the manner prescribed by the marshal. Following the public hearing, the state fire marshal may approve, approve in modified form, or disapprove a proposed rule. The state fire marshal shall specify the date when any new rule or change in an existing rule becomes effective. *A new rule or change in an existing rule relating to building and equipment standards covered by the state or a municipal building code is effective upon approval of the state building code council and filing with the secretary of state.*"

Repealing clause.

Section 27. Sections 66-2424, 66-2818, 69-2101 through 69-2103, 69-3701 through 69-3719, and 75-3103, R.C.M. 1947, are repealed.

Approved: March 15, 1969.

CHAPTER NO. 367

An Act to Provide for a "Unitary Method" of Airline Flight Property Assessment; Amending Sections 84-6401 and 84-6404, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 84-6401, R.C.M. 1947, is amended to read as follows:

Amending clause.

"84-6401. **Definitions.** The following words and phrases, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

Definitions.

(a) 'Person' means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor.

"Person."

(b) 'Scheduled airline company' means any person or company who undertakes directly or indirectly to engage in the business of scheduled air commerce.

"Scheduled airline company."

(c) 'Aircraft' means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

"Aircraft."

(d) 'Flight property' means aircraft fully equipped ready for flight used in air commerce.

"Flight property."

(e) 'Air commerce' means the transportation by aircraft of persons or property for hire in interstate, intrastate or international transportation on regularly scheduled flights.

"Air commerce."

(f) 'Equated plane hours' means hours spent by aircraft in flight or on the ground weighted according to the cargo capacity of each aircraft.

"Equated plane hours."

(g) 'Operating' or 'operated' means landings or take-offs during interstate flight."

"Operating."

Section 2. Section 84-6404, R.C.M. 1947, is amended to read as follows:

Amending clause.

"84-6404. **Determination of value.** The board shall determine the full and true valuation of all flight property *of all airlines operating in this state* or used by every scheduled airline company in air commerce. *This valuation may be ascertained by:*

Determination of value.

(1) Determining the full and true valuation of all flight